IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 19862 of 1994

Between:

1. S.Prataplingam S/o.Balaram,

   Sr Assistant, O/o.A.P.State Handloom Weavers Co-operative Society Ltd. Narayanadguda,

   Hyderabad.

2. K.Yegappa S/o.Vishwanadha Rao Kalyani,

   Occ.Sr.Assistant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

3. G.Ganesh S/o.G.Rao,

   Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

4. B.R.Desai S/o.Dharmarao Desai,

   Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

5. P.Srilaxmi W/o.D.Chandrasekhar,

   Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

6. G.Laxminarsimhulu S/o.Late Buchinarsimhulu,

   Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Divisional Marketing Office, Secunderabad.

7. G.Damodar S/o.Kommuraiah,

   Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

8. Y.Ashok S/o.Shankaraih,

   Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Divisional Marketing Office,

Secunderabad.

9. B.Hanumanthu S/o.Mallaiah,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

10. B.Satyanarayana Reddy S/o.Anantha Reddy,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Divisional Marketing Office, Secunderabad.

11. Anilkumar Kulkarni S/o.B.V.Kulkarni,

Occ.Sr.Asst., working in APCO Handloom House, Abids, Hyderabad.

12. M.Devidas S/o.Late Hanumantha Rao,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

13.P.Sureshkumar S/o. Late Vital Rao Pawar,

Occ: Sr.Asst., O/o.the A.P.S.H.W.C.S.Ltd., Narayanaguda,

Hyderabad.

14. A.Ravinder Yadav S/o.Ramakrishnaiah,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Export Division, Hyderabad.

15. B.Anilkumar S/o.B.V.Chalapathi Rao,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

16. B.Kishan S/o.Bhoomaiah

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Wholesale Godown, Secunderabad.

17. D.Narsaiah S/o.Late Muttilingam,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Wholesale Gowdown, Secunderabad.

18. S.Bhagyawathi W/o.S.Venktanarayana,

Occ.Sr.Assisstant, O/o.The A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

..... PETITIONERS

AND

1. The Managing Director,

A.P.State Handloom Weavers Co-Operative Society ltd.,

3-5-770, Weavers Bhavan, Narayanaguda, Hyderabad.

2. Commissioner for Handlooms & Director of Handlooms & Textiles,
B.R.K.Rao Bhavan, Tankbund, Hyderabd.

3. The Secretary,

Industries & Commerce (H.L.) Departnment,

Government of Andhra Pradesh,

Secretariat, Hyderabad.

4. Sarvasri:

B.Srinivasulu, Superintendent,

A.P.S.H.W.C.S.Ltd., Djivisional Marketing Office, Ananthapur.

5. R.Kramulu, Supdt., A.P.S.H.W.C.S.Ltd., Narayanaguda,

Hyderabad.

6. M.M.M.Prakash, Supdt., A.P.S.H.W.C.S.Ltd., Narayanaguda, Hyderabad.

7. B.Vanusahed, Supdt., A.P.S.H.W.C.S.Ltd., D.M.O.,

Narisingraopet, Kurnool.

8. M.Suryanarayana Reddy, Supdt., A.P.S.H.W.C.S.Ltd., D.M.O., H.No.20/520,
Madras Road, Cuddapah.

9. V.Ramakrishna Rao, Supdt.,

A.P.S.H.W.C.S.Ltd., D.M.O., Nellore.

10. M.Venkataramaiah, Supdt., A.P.S.H.W.C.S.Ltd., D.M.O., H.No.11-387, Sainagar,
Ananthapur.

11. B.Nagesh Babu, Supdt. A.P.S.H.W.C.S.Ltd., D.M.O., Tirupathi.

12. D.Narender Reddy, Supdt.,

A.P.S.H.W.C.S.Ltd., D.M.O., H.NO.20/520, Madras Road,

Cuddapah.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein, the High Court will be pleased to issue an order, direction, or writ, particularly one in the nature of writ of mandamus declare the action of the 1st respondent society in effecting promotions to the post of Superintendent on the basis of region wise seniority, contrary to the stipulated guidelines and norms fixed by the sub-committee to effect promotions to the post of Superintendent on the basis of integrated seniority list of Sr.Assistants of all three (3) regions of the State and in the absence of such integrated seniority list, promoting several Sr.Assistants on the basis of regionwise seniority as superintendents vide impugned proceedings No.Ref.No.Est/E-1/C.O/94-95, dated 11-4-1994 by the 1st respondent as highly illegal, irregular and against the principles of natural justified,

equity and fair play and set aside the same with a direction to promote the petitioners herein as Superintendents with all consequentional monetary benefits including seniority and pass such order or orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.CH.GANESH

Counsel for the Respondents No.: MR.P.NAGASESHAIAH

The Court made the following:

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ORAL ORDER:

Heard both sides.

2. The petitioners seek writ of Mandamus declaring the action of the first respondent-society (for short “the society”) in effecting promotions to the post of Superintendent on the basis of regionwise seniority, contrary to the stipulated guidelines and norms fixed by the sub-committee to effect promotions to the post of Superintendent on the basis of integrated seniority list of Senior Assistants of all the three (3) regions of the State and in the absence of such integrated seniority list, promoting several Senior Assistants on the basis of regionwise seniority as Superintendents as highly illegal and irregular.

3. The facts, in brief, are that the petitioners have been working in different capacities in the society and they are eligible for promotion to the post of Superintendent. Some promotions were effected in the year 1993-1994 to the post of Superintendent on the basis of the seniority list prepared on the basis of the regions. It appears that an integrated seniority list/Statewide was prepared in the year 1990. Hence, it is the contention of the petitioners that instead of effecting promotions to the post of Superintendent, following the integrated seniority list, resorting to make promotions as per the regionwise seniority list is illegal.

4. In the counter-affidavit filed by the respondents, it is stated that A.P Handloom Weavers Co-operative Society (for brevity “the APCO”) came into force after merger of three societies viz., (1).Co-Fabrics, Vijayawada, (2).HYCO-Fabrics, Hyderabad, and (3).RAYA-Fabrics, Kurnool, in the year 1976. After such formation of the APCO, promotions are being given, on the basis of regionwise seniority list,

by the concerned Regional Managers. Promotions to the categories of Superintendents/Inspecting Offices and above were given by the Central Office, Hyderabad. In the year 1978, the Regional Offices were abolished and in their places Divisional Offices were opened. Till then, promotions to all the cadres are being given by the Central Office, Hyderabad. Specific instructions were also issued to all the concerned employees informing them that from thereafter promotions will be given in accordance with the regionwise seniority position upto the cadre of Superintendent. A specific procedure in this regard was also laid in a Memo No.6914/E1/Central/1978, dated 13-10-1978.

5. It was further stated in the counter-affidavit that in the year 1980, the then Managing Director of the APCO had prepared an integrated seniority list, contrary to the instructions issued in the Memo, referred to above, dated 13-10-1978, without obtaining the permission or previous sanction of the Managing Committee, which is supreme authority, in taking any such policy decisions, particularly relating to the promotions. It is further stated in the counter-affidavit that the said integrated seniority list prepared by the Managing Director was not published nor was communicated to the individuals. It is also stated that subsequently the Managing Committee had passed a resolution No.38, dated 28-01-1993, to make promotions upto the post of Superintendent on regionwise basis and the promotions made to the post above the rank of Superintendent would be on the basis of integrated seniority list

6. From the above, it is clear that different categories of employees were working in three societies prior to the year 1976 i.e., prior to the formation of APCO. Some promotions were effected on regionwise

basis. According to the respondents, even after the formation of APCO in the year 1976, by virtue of the circular instructions, dated 13-10-1978, a decision was taken by the Managing Committee to take only the region as a unit to effect the promotions to the post of Superintendent. It is further clear from the above that this fact was in the knowledge of the individuals, working under the APCO, since 1978. Of course, no information is forthcoming as to how many employees were promoted or how many times promotions were effected on the basis of region.

7. A further significant factor to be noted is that it is only for the first time in the year 1990, the then Managing Director tried to introduce the system to effect promotions to the post of Superintendent on the basis of integrated seniority list. But, an important point to be borne in mind is that this was contrary to the earlier circular instructions of the year 1978 and the same was never communicated to any of the individuals nor was approved by the Managing Committee. Such a decision cannot be given effect to and, in fact, was not given effect to. It appears that some writ petitions also have been filed before this Court by the aggrieved persons. No further information is forthcoming as to what had happened to those writ petitions.

8. However, it is on record that the Managing Committee had taken a decision by way of passing a resolution No.38, dated 28-01-1993.

9. Therefore, the so-called integrated seniority list prepared by the Managing Committee in the year 1990_was neither given effect to nor had any legal force nor sanctity, since it was not approved by the Managing Committee. In other words, it can be termed as a seniority list non-est.

10. Another important factor to be noted is that having full knowledge that the promotions would be made only on the region basis, way back in the year 1978, I do not find any comprehensible reason for the petitioners to file this writ petition seeking a direction to the respondents to implement the integrated seniority list prepared by the then Managing Director, which had no legal sanction nor approved by the Managing Committee.

11. Further more, several promotions were effected between the years 1978 and 1993-1994. Those promotions are not under challenge nor can be challenged at this length of time. Even after the year 1994, the promotions were effected on the regionwise basis up to the category of Superintendents, those promotions also cannot be disturbed at this length of time.

12. The significant lapse on the part of the petitioners is that the parties to be affected i.e., the individuals, who were promoted to the post of Superintendent at the relevant point of time, are not made parties to the present writ petition.

13. For the foregoing reasons, I do not find any merits in this writ petition and the same is liable to be dismissed.

14. In the result, the writ petition is dismissed. However, there shall be no order as to costs.

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(D.S.R.VARMA, J)

15TH JULY 2004.

MRB/KRK

ASSISTANT REGISTRAR

///TRUE COPY//

SECTION OFFICER

1. The Managing Director,

A.P.State Handloom Weavers Co-Operative Society ltd.,

3-5-770, Weavers Bhavan, Narayanaguda, Hyderabad.

2. Commissioner for Handlooms & Director of Handlooms & Textiles,
B.R.K.Rao Bhavan, Tankbund, Hyderabd.

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12. D.Narender Reddy, Supdt.,

A.P.S.H.W.C.S.Ltd., D.M.O., H.NO.20/520, Madras Road,

Cuddapah.

13. Two CD Copies